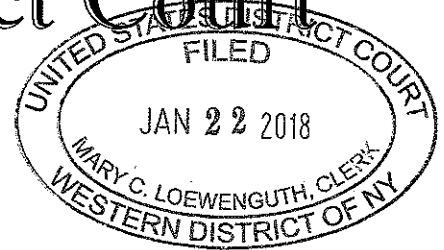


United States District Court

for the
Western District of New York



United States of America

v.

Case No. 18-MJ-514

SEGUNDO FRANCISCO CAGUANA-LOJA,

Defendant

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief:

On or about and between June 1, 2017 and November 14, 2017, in the Western District of New York, the defendant violated 8 U.S.C. §§ 1324a(a)(1)(A)(iii) (harboring aliens), 1324(a)(1)(A)(iv) (encouraging the residence of illegal aliens), and 1324a(a)(1)(A) (hiring or recruiting unauthorized aliens for employment), offenses described as follows:

The defendant, knowing and in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, did knowingly conceal, harbor, and shield from detection, and attempt to conceal, harbor, and shield from detection, such alien in any place, including any building and by any means of transportation; and did encourage and induce an alien to reside in the United States, knowing and in reckless disregard of the fact that such residence is or would be in violation of law; and did hire and recruit for employment in the United States an alien knowing the alien is an unauthorized alien with respect to such employment, all in violation of Title 8, United States Code, Sections 1324(a)(1)(A)(iii), 1324(a)(1)(A)(iv), and 1324a(a)(1)(A).

This Criminal Complaint is based on these facts:

☒ Continued on the attached sheet.

Sworn to before me and signed in my presence.

Date: January 22, 2018

City and State: Rochester, New York

A handwritten signature in black ink, appearing to read "Nathan Spisak".

Complainant's signature

Special Agent Nathan Spisak, H.S.I.

A handwritten signature in black ink, appearing to read "Jonathan W. Feldman".

Printed name and title

Judge's signature

JONATHAN W. FELDMAN
UNITED STATES MAGISTRATE JUDGE

Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

STATE OF NEW YORK)
COUNTY OF MONROE) SS:
CITY OF ROCHESTER)

NATHAN SPISAK, being duly sworn, deposes and says that:

1. I have been a Special Agent with the United States Department of Homeland Security, Immigration and Customs Enforcement ("ICE"), Homeland Security Investigations ("HSI") since October 2006. During my employment with HSI, I have participated in numerous investigations and/or criminal prosecutions concerning human trafficking, forced labor, harboring of unauthorized aliens, and the hiring or recruitment of unauthorized aliens for employment in violation of Title 8, United States Code, Sections 1324 and 1324a.

2. This affidavit is based upon my own knowledge, my review of official records of the former Immigration and Naturalization Service and current ICE, and upon information that I obtained from other law enforcement officers involved with this investigation.

3. I make this affidavit in support of the annexed criminal complaint charging Segundo Francisco CAGUANA Loja (hereinafter referred to as CAGUANA) with violating Title 8, United States Code, Section 1324(a)(1)(A)(iii) (harboring aliens), Section 1324(a)(1)(A)(iv) (encouraging illegal aliens to reside in the United States), and Section 1324a(a)(1)(A) (hiring or recruiting unauthorized aliens for employment). As is set forth below, CAGUANA, knowing and in reckless disregard of the fact that aliens have

entered or remained in the United States in violation of law, concealed and harbored such aliens and encouraged or induced such aliens to reside in the United States in violation of 8 U.S.C. §§ 1324(a)(1)(A)(iii) and 1324(a)(1)(A)(iv). CAGUANA also knowingly hired and employed unauthorized aliens in violation of 8 U.S.C. 1324a(a)(1)(A).

4. Since this affidavit is being submitted for the limited purpose of securing a criminal complaint and arrest warrant, I have not included every fact known to me concerning this investigation. I have set forth only facts that I believe are necessary to establish probable cause to demonstrate that CAGUANA has violated Title 8, United States Code, Sections 1324(a)(1)(A)(iii), 1324(a)(1)(A)(iv), and 1324a(a)(1)(A).

5. On October 5, 2017, Homeland Security Investigations (HSI) received information from the Caledonia Police Department regarding possible illegal aliens residing at 246 North Street, Caledonia, New York 14423, and working for Sunset Roofing Corp. Surveillance operations were conducted between October 30 and November 9, 2017 at 246 North St. During surveillance, Agents observed a pattern in which CAGUANA would arrive to the home in a brown Toyota Tundra at approximately 0630. CAGUANA would exit the vehicle and enter the house. At approximately 0700 CAGUANA would return to the brown Tundra and depart the residence. At approximately 0720 multiple Hispanic adult males would depart the residence in two work vans parked in the driveway.

6. On November 14, 2017, HSI Agents and ICE Enforcement Removal Officers (ERO) conducted a joint enforcement operation in an attempt to encounter illegal aliens residing at 246 North Street, Caledonia. Officers conducted surveillance and at approximately 0710 hours Officers observed multiple individuals exit the residence. HSI

Agents and ERO Officers identified themselves and conducted interviews with the individuals. Seven of the individuals admitted to being illegally present and illegally working within the United States. Six of the undocumented aliens were arrested for violations of INA 212(a)(6)(a)(i) (Entry Without Inspection), and one was arrested in violation of Section 217 of the IN (Visa Waiver Overstay). All seven were transported to the Batavia Detention Facility for processing where they were interviewed further. Their interviews are summarized as follows.

7. L.A.A.A., one of the unauthorized aliens, admitted to being within the United States illegally. L.A.A.A. stated that he worked for CAGUANA at Sunset Roofing, LLC and paid him rent to reside at 246 North St., Caledonia, NY. When asked if CAGUANA knew of his immigration status L.A.A.A. stated "yes, Segundo (CAGUANA) knew that I was illegally in the United States." L.A.A.A. recalled that he was transported from Middletown to Caledonia, NY in one of the work vans. L.A.A.A. stated that he used the same work van to travel between job sites on days he worked for CAGUANA.

8. C.R.N.A., another of the unauthorized aliens, admitted to being within the United States illegally. C.R.N.A. stated that he worked for CAGUANA at Sunset Roofing, LLC and paid him rent to reside at 246 North St., Caledonia, NY. When asked if CAGUANA knew of his immigration status C.R.N.A. stated "yes, because I told him." C.R.N.A. was observed during surveillance riding in the work vans to the job sites.

9. S.H.M.G., another of the unauthorized aliens, admitted to being within the United States illegally. S.H.M.G. stated that he worked for CAGUANA at Sunset Roofing, LLC and paid him rent to reside at 246 North St., Caledonia, NY. S.H.M.G. rode in either

of the work vans to get to the job sites.

10. S.M.C.M., another of the unauthorized aliens, admitted to being within the United States illegally. S.M.C.M. stated that he worked for CAGUANA at Sunset Roofing, LLC and paid him rent to reside at 246 North St., Caledonia, NY. When asked if CAGUANA knew of his immigration status S.M.C.M. stated "he must have known, if I had a work permit I would have shown it." S.M.C.M. traveled between job sites by riding in either of the vans provided by CAGUANA.

11. A.J.T.M., another of the unauthorized aliens, admitted to being within the United States illegally. A.J.T.M. stated that he worked for CAGUANA at Sunset Roofing, LLC and paid him rent to reside at 246 North St., Caledonia, NY. A.J.T.M. travels to and from job sites utilizing the work vans provided by CAGUANA. A.J.T.M. also recalls traveling from Middletown, NY, to Caledonia, NY, in a brown Toyota Tundra.

12. C.A.C.G., another of the unauthorized aliens, admitted to being within the United States illegally. C.A.C.G. stated that he worked for CAGUANA at Sunset Roofing, LLC and paid him rent to reside at 246 North St., Caledonia, NY. When asked if CAGUANA knew of his immigration status C.A.C.G. stated "He must have known." C.A.C.G. claims to have been driven to the job sites in either of the two work vans provided by CAGUANA.

13. J.C.A.A., another of the unauthorized aliens, admitted to being within the United States illegally. J.C.A.A. stated that he worked for CAGUANA at Sunset Roofing, LLC and paid him rent to reside at 246 North St., Caledonia, NY. When asked if CAGUANA knew of his immigration status J.C.A.A. stated "yes." J.C.A.A. was driven

from Middletown, NY, to Caledonia, NY, in one of the Sunset Roofing work vans provided by CAGUANA. J.C.A.A. claimed he used the same two work vans to travel between job sites. J.C.A.A. was interviewed at a later date in the presence of his attorney. At that time, J.C.A.A. further explained the work that he and the other unauthorized aliens were hired to do for CAGUANA. He explained that he and the other aliens were hired by CAGUANA as roofers. J.C.A.A. explained that he met CAGUANA through a mutual friend and that he began working for CAGUANA in approximately June 2017. J.C.A.A. described a busy work schedule stating that his crew would typically re-roof a new house every one to two days. J.C.A.A. stated that he had no roofing experience prior to working for CAGUANA, and that he learned the trade on the job. J.C.A.A. stated that he received his pay directly from CAGUANA, but that some expenses were withheld, such as his rent for the home at 246 North St.

14. CAGUANA and his wife were also encountered on November 14, 2017. Record checks show CAGUANA and his wife, are Citizens and Nationals of Ecuador. They are currently involved in immigration proceedings, but are authorized to work within the United States.

15. CAGUANA was interviewed on November 14, 2017 and stated that he and the seven undocumented aliens listed above work for Sunset Roofing, LLC. CAGUANA stated that he acts as a "foreman" for Sunset Roofing and that he hired the seven unauthorized aliens out of Middletown, NY, where he currently claims to reside. CAGUANA admitted that he paid the unauthorized aliens in cash at the end of each work week. CAGUANA stated that he did not pay the alien workers with checks because they do not have bank accounts due to their immigration status. CAGUANA told Agents that

the house at 246 North Street belongs to his boss, Ivan, and that CAGUANA takes money out of the workers' salaries each week in order to pay the rent and utilities. CAGUANA stated that he is the owner of the two work vans and the Toyota Tundra that were observed by Agents during the above-described surveillance sessions. CAGUANA further stated that he provided the vans to the undocumented alien workers so they could transit to job sites and travel to Middletown, NY on the weekends.

16. When asked if he knew the immigration status of the unauthorized aliens that he hired, CAGUANA stated that he believed they were illegal.

17. CAGUANA recalled a Police encounter that occurred at 246 North St. in August 2017. CAGUANA remembered that one of the alien workers within the home wanted to file assault charges against another alien worker. CAGUANA stated that he told the alien to "think about it." CAGUANA stated that he believed that if the alien worker pressed charges, the police would investigate the immigration status of the other workers in the house and arrest everyone for being in the United States illegally.

CONCLUSION

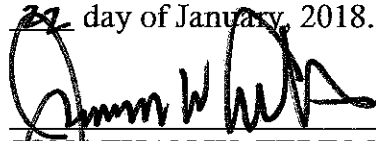
Based on the foregoing, I respectfully submit that there is probable cause to believe that the defendant, Segundo Francisco CAGUANA Loja, did violate Title 8, United States Code, Sections 1324(a)(1)(A)(iii) (harboring aliens), (a)(1)(A)(iv) (encouraging illegal aliens to reside in the United States), and 1324a(a)(1)(A) (hiring or recruiting unauthorized aliens for employment).

I declare, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge.


NATHAN SPISAK

Special Agent,
Homeland Security Investigations

Sworn to before me this
~~29~~ day of January, 2018.


JONATHAN W. FELDMAN
UNITED STATES MAGISTRATE JUDGE